

REMARKS

Claims 1-8 and 10-19 are currently pending in the application. Applicant reserves the right to pursue the original claims and other claims in this and other applications.

The title of the invention is objected to as not being descriptive. The title has been amended and, as such, Applicant respectfully submits is clearly indicative of the invention to which the claims are directed.

The abstract is objected to as not using the proper language and format for an abstract. The abstract has been amended to improve clarity and form.

Claims 1-4, 13-15 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kimura in view of Ohsato. This rejection is respectfully traversed.

The Office Action asserts on page 4 that light detecting elements 532 and 534 in Kimura are adjacent because they are “near/close to each other but not necessarily touching.” Applicant respectfully submits that this is a misinterpretation of the word “adjacent.” According to the Merriam-Webster Dictionary (see attached Appendix A), the word adjacent “always implies absence of anything of the same kind in between.” Thus, “adjacent” is different from “close” or “near,” which simply imply a short distance. As can be seen in Figs. 1, 8 and 9, for example, light detecting elements 532 and 534 in Kimura are not adjacent because they are separated by light detecting element 533. For this reason, Kimura does not teach or suggest, “wherein substantially no light reflected by the first recording layer reaches the second photo detecting section, and substantially no light reflected by the second recording layer reaches the first photo detecting section that is adjacent to the second photo detecting section,” as recited in claims 1 and 19.

Ohsato does not cure the deficiencies of Kimura. As can be seen in Figs. 3A through 3C of Ohsato, all of the light paths are those of the laser light reflected from a single recorded surface 6. Thus, Ohsato does not teach or suggest light reflected by a first recording layer and light reflected by a second recording layer, as recited in the present claims.

Since the Kimura and Ohsato combination does not teach or suggest all of the limitations of claims 1 and 19, claims 1 and 19 are not obvious over the cited combination. Claims 2-4 and 13-15 depend from claim 1 and are patentable at least for the reasons mentioned above. Applicant respectfully requests that the rejection be withdrawn and the claims allowed.

Claims 5-8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kimura in view of Ohsato, and further in view of Inoue. This rejection is respectfully traversed. Claims 5-8 depend from claim 1 and are patentable over the Kimura and Ohsato combination for at least the reasons mentioned above. Inoue, which has been cited as teaching that the light splitting unit is a holograph, does not cure the deficiencies of Kimura and Ohsato discussed above. Accordingly, Applicant respectfully requests that the rejection be withdrawn and the claims allowed.

Claim 10 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kimura in view of Ohsato, and further in view of Ogasawara. This rejection is respectfully traversed. Claim 10 depends from claim 1 and is patentable over the Kimura and Ohsato combination for at least the reasons mentioned above. Ogasawara, which has been cited as teaching a light condensing unit driven in a direction of an optical axis of the light condensing unit, does not cure the deficiencies of Kimura and Ohsato discussed above. Accordingly, Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

Claim 11 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kimura in view of Ohsato, and further in view of Magnitski. This rejection is respectfully traversed. Claim 11 depends from claim 1 and is patentable over the Kimura and Ohsato combination for at least the reasons mentioned above. Magnitski, which has been cited as teaching a photosensor moved along the z-axis, does not cure the deficiencies of Kimura and Ohsato discussed above. Accordingly, Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kimura in view of Ohsato, and further in view of Tada. This rejection is respectfully traversed. Claim 12 depends from claim 1 and is patentable over the Kimura and Ohsato combination for at least the

reasons mentioned above. Tada, which has been cited as teaching an opto-electrical device having a refractive index changing in response to an applied voltage, does not cure the deficiencies of Kimura and Ohsato discussed above. Accordingly, Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

Claim 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kimura in view of Ohsato, and further in view of Ogasawara and Maeda. This rejection is respectfully traversed. Claim 16 depends from claim 1 and is patentable over the Kimura, Ohsato and Ogasawara combination for at least the reasons mentioned above. Maeda, which has been cited as teaching a signal selecting unit, does not cure the deficiencies of Kimura, Ohsato and Ogasawara discussed above. Accordingly, Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kimura in view of Ohsato, and further in view of Magnitski, Tada and Maeda. This rejection is respectfully traversed. Claim 17 depends from claim 1 and is patentable over the Kimura, Ohsato and Magnitski combination for at least the reasons mentioned above. Tada and Maeda, which have been cited as teaching a drive control unit and a signal selecting unit, do not cure the deficiencies of Kimura and Ohsato discussed above. Accordingly, Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

Claim 18 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kimura in view of Ohsato, and further in view of Tada and Maeda. Claim 18 depends from claim 1 and is patentable over the Kimura, Ohsato and Tada combination for at least the reasons mentioned above. Maeda, which has been cited as teaching a signal selecting unit, does not cure the deficiencies of Kimura and Ohsato discussed above. Accordingly, Applicant respectfully requests that the rejection be withdrawn and the claim allowed.

In view of the above, Applicant believes the pending application is in condition for allowance.

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APPENDIX A

Excerpt from the Merriam-Webster Dictionary

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adjacent

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Main Entry: **ad·ja·cent**

Pronunciation: \ə-ˈjā-sənt\

Function: *adjective*

Etymology: Middle English, from Anglo-French or Latin; Anglo-French, *ajesaunt*, from Latin *adjacent-*, *adjacens*, present participle of *adjacere* to lie near, from *ad-* + *jacere* to lie; akin to Latin *jacere* to throw — more at **JET**

Date: 15th century

1 a : not distant : **NEARBY** <the city and adjacent suburbs> **b :** having a common endpoint or border <adjacent lots> <adjacent sides of a triangle> **c :** immediately preceding or following

2 of two angles : having the vertex and one side in common

— **ad·ja·cent·ly** *adverb*

synonyms **ADJACENT**, **ADJOINING**, **CONTIGUOUS**, **JUXTAPOSED** mean being in close proximity. **ADJACENT** may or may not imply contact but always implies absence of anything of the same kind in between <a house with an *adjacent* garage>. **ADJOINING** definitely implies meeting and touching at some point or line <had *adjoining* rooms at the hotel>. **CONTIGUOUS** implies having contact on all or most of one side <offices in all 48 *contiguous* states>. **JUXTAPOSED** means placed side by side especially so as to permit comparison and contrast <a skyscraper *juxtaposed* to a church>.

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Merriam-Webster Online. 16 February 2010
<<http://www.merriam-webster.com/dictionary/adjacent>>

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